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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,824	12/22/2000	John Simons	16869c017000	4283
7590	05/06/2005			EXAMINER NAHAR, QAMRUN
Robert J. Bennett TOWNSEND and TOWNSEND and CREW LLP 8th floor Two Embarcadero Center San Francisco, CA 94111-3834			ART UNIT 2191	PAPER NUMBER
DATE MAILED: 05/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/747,824	SIMONS, JOHN
	Examiner	Art Unit
	Qamrun Nahar	2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 6/9/04 and response filed on 10/29/04.
2. The objection to claim 2 is withdrawn in view applicant's amendment.
3. The rejection under 35 U.S.C. 102(c) to claims 1-8 is withdrawn in view of applicant's remarks/arguments and submission of declaration of John Simons on 06/14/2004.
4. Claims 2 and 4 have been amended.
5. Claims 1-8 are pending.
6. Claim 4 stand finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claims 1-8 stand finally rejected under 35 U.S.C. 102(b) as being anticipated by Greenbaum (U.S. 5,933,642).

Response to Amendment

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
9. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the predetermined statement corresponding to the second statement" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. This limitation is interpreted as "the predetermined statement corresponding to the second instruction". This matter was pointed out in the last Office Action, Mailed on 02/10/2004, par. 10.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenbaum (U.S. 5,933,642).

Per Claim 3:

The Greenbaum patent discloses:

- **a method of compiling source code having a plurality of first instructions and a at least one second instruction with a compiler capable of deciphering the first instructions but not the second instruction** ("A compiling system and method for generating a sequence of program instructions for use in a dynamically reconfigurable processing unit having an internal hardware organization that is selectively changeable among a plurality of hardware architectures, each

hardware architecture executing instructions from a corresponding instruction set. Source files are compiled for execution using various instruction set architectures as specified by reconfiguration directives.” in abstract and column 13, lines 23-27)

- copying each of the first instructions to a temporary file (column 13, lines 34-39)

- converting the second instruction to an object code equivalent that forms an argument of a predetermined compiler statement that is written to the temporary file in place of the second instruction (column 4, lines 33-37 and column 13, lines 40-50)

- applying the temporary file to the compiler to convert each of the first instructions to object code equivalents that are written to an object file; and removing the argument of the predetermined statement to write the argument to the object file (column 13, lines 51-66 and column 14, lines 29-37).

Per Claim 4 (Amended & as best understood):

The Greenbaum patent discloses:

- wherein the first instructions and the second instruction are in a predetermined order in the source code, and the predetermined order is maintained when the first instructions and the predetermined statement corresponding to the second instruction are in the temporary file (column 13, lines 23-54).

Per Claim 5:

The Greenbaum patent discloses:

- wherein the predetermined statement is a data directive (column 4, lines 24-32 and column 13, lines 40-50).

Per Claim 1:

This is another version of the claimed method discussed above (claims 3, 4 and 5), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Greenbaum.

Per Claim 2 (Amended):

This is another version of the claimed method discussed above (claims 3 and 5), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Greenbaum.

Per Claims 6-7:

These are processing system versions of the claimed method discussed above (claims 3 and 5, respectively), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Greenbaum.

Per Claim 8:

This is a system version of the claimed method discussed above, claim 3, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Greenbaum.

Response to Arguments

12. Applicant's arguments filed on 6/9/04 have been fully considered but they are not persuasive.

In the remarks, the applicant argues that:

a) In the development of microprocessors and other similar complex systems executing stored instructions, it is sometimes desired to add new instructions to the set of instructions which the microprocessor is to execute. Adding such new instructions, however, creates a problem because the "old" assembler does not "know" the "new" instructions and therefore cannot assemble them into executable code.

The claimed invention of this patent application provides a method of using an old assembler to assemble source code which source code contains both old and new instructions to produce corresponding object code. According to an embodiment of the invention, the source code is first examined by a preprocessor that writes each old instruction to a temporary file unchanged. When a new instruction is encountered in the source code, it is ...

Counsel does not believe, however, that Greenbaum teaches the object code enabling execution is generated when instructions, which the assembler cannot convert, are included as

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well. Thus, counsel does not believe Greenbaum teaches that new instructions included in the source code can be copied to a temporary file as data in the form of object code. For these reasons the 102(b) rejection is respectfully traversed.

Examiner's response:

a) Examiner strongly disagrees with applicant's assertion that Greenbaum fails to disclose the claimed limitations recited in claims 1-8. Greenbaum clearly shows each and every limitation in claims 1-8. As previously pointed out in the last Office Action (Mailed on 02/10/2004, par. 14), Greenbaum teaches the new instructions included in the source code can be copied to a temporary file as data in the form of object code (column 4, lines 24-37 and column 13, lines 40-50; reconfiguration directives are interpreted as data in the form of object code corresponding to new instructions). In addition, see the rejection above in paragraph 11 for rejection to claims 1-8.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QN
April 20, 2005



ANTONY NGUYEN-BA
PRIMARY EXAMINER